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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/548,084	09/06/2005	Kenji Tsubota	050496	7646
23850 7590 11/23/2009 KRATZ, QUINTOS & HANSON, LLP 1420 K Street, N.W. Suite 400 WASHINGTON, DC 20005			EXAMINER ROST, ANDREW J	
			ART UNIT 3753	PAPER NUMBER
			MAIL DATE 11/23/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/548,084

**Applicant(s)**

TSUBOTA ET AL.

**Examiner**

Andrew J. Rost

**Art Unit**

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 July 2009.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-8 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 2-5, 7 and 8 is/are allowed.  
6) ☒ Claim(s) 8 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 06 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claim 1 has been canceled. Claim 6 is currently amended. No claims have been newly added. Presently, claims 2-8 are pending.

### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "working member in automatic opening and closing serves as a **tube-shaped body** which is **fitted in the stem-shaped** working member in manual opening and closing" wherein the working member in manual opening and closing "presses a top surface center of the valve element holder" and wherein the working member in automatic opening and closing is biased to "press a top surface periphery of the valve element holder" (all from claim 6) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

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consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The terms "working member in automatically opening and closing" and "moved by automatically opening and closing means" are taken to mean a working member that is moved by any means other than by manual operation.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 6 is rejected under 35 U.S.C. 102(e) as being anticipated by Fukano (US 2003/0201015 A1).

Fukano discloses a fluid control device having a valve case (12) with a fluid channel (28), a casing (16), a valve element (78), a valve element holder (80) which is moved in order to operate the valve element, an elastic member (60, 96) biasing the valve element toward a closed position, a working member (76, 72, 108) for automatically opening and closing the valve member and a working member (18) for manual opening and closing which is able to press the valve element into a closed position wherein the working member (18) for manual opening and closing is movably fitted (fitted around the outside) to the working member (76, 72, 108 and portion that is affixed to support ball 118) in automatic opening and closing. Fukano further discloses wherein the working member in manual opening and closing (18) and the working member in automatic opening and closing (76, 72, 108) operate by moving in the same direction (the diaphragm 78 is displaced from the valve seat 30 while both the working member 18 and the working member 72,76,108 are moved in a direction away from the valve seat and the diaphragm 78 is pressed against the seat 30 by either the spring bias pressing the working member 72, 76, 108 toward the valve seat 30 or the displacement of the working member 18 toward valve seat 30) wherein the working member for manual operation is a stem-shaped member (stem 126) that is moved by manual operation from a position in which the working member presses a top surface center of the valve element holder (the lower surface of the stem presses on the center surface of the cap 108 which in turn transmits the force to the valve element holder) so that the valve element is pressed into a closed position (fig. 5) and a position in which the working member is spaced from the automatically operated working member (76,

72,108) in order to allow for operation of the valve element (fig. 1) where the working member in automatic opening and closing serves as a tube-shaped body (a flow passage is located within the body and is considered tube-shaped) which is fitted in the stem-shaped working member in manual opening and closing (fitted within opening 134 of the stem-shaped member 126) wherein the working member in automatic opening and closing is biased by the elastic member to press a top surface periphery of the valve element holder (upper surface of the valve element holder) toward the closed position.

***Allowable Subject Matter***

6. Claims 2-5, 7 and 8 are allowed.

***Response to Arguments***

7. Applicant's arguments filed 7/27/2009 have been fully considered but they are not persuasive. Applicant argues the rejection of claim 6 under 102(e) as being anticipated by Fukano (2003/0201015).

Applicant argues the working member in manual opening and closing having a lower end presses a top surface center of the valve element holder downward feature on page 10. However, Fukano discloses the working member in manual opening and closing (18) is moved toward the valve seat (30) and presses on the valve element holder (80) through the members (108, 76, 72) in figure 5. Therefore, the working

member in manual opening and closing has a lower end that presses a top surface center of the valve element holder (as shown in figure 5).

Applicant argues the working member in automatic opening and closing serves as a tube-shaped body which is fitted in the stem-shaped working member in manual opening and closing so as to be relatively and vertically movable and moved to a closing position feature on page 10, first paragraph. However, Fukano discloses a working member in automatic opening and closing (elements 76, 72, 108) to be a tube-shaped body (the elements are cylindrical in nature with a flow passage located within the elements) which is fitted in the stem-shaped working member in manual opening and closing (element 18 has a stem-shaped body with the stem being defined by elements 126 and 132 wherein a portion of the working member in automatic opening and closing (elements 108 and a top portion of 76) is received and fitted in a portion of the working member in manual opening and closing (element 132) so as to be relatively and vertically movable (the movable nature of the working members is shown in figures 1-5)).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the operation of the working member in manual opening and closing can be performed regardless of the force working from the automatically opening and closing means to the working member in automatic opening and closing) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification,

limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Rost whose telephone number is 571-272-2711. The examiner can normally be reached on 7:00 - 4:30 M-Th and 7:00 - 12:00 Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. J. R./  
Examiner, Art Unit 3753

/STEPHEN HEPPERLE/  
Primary Examiner, Art Unit 3753